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MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

INCOME-TAX

New Delhi, the 29th August 1958

G.S.R. 761.—In exercise of the powers conferred by section*49A of the Indian Income-tax Act, 1922 (11 of 1922), the Central Government hereby directs that all provisions of the annexed agreement for the avoidance of double taxation of income of enterprises operating aircraft which has been concluded between the Government of India and the Swiss Federal Council shall be given effect to in the Union of India.

AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE SWISS
FEDERAL COUNCIL CONCERNING THE TAXATION OF ENTERPRISES
OPERATING AIRCRAFT

Whereas the Government of India and the Swiss Federal Council desire to conclude an agreement for avoidance of double taxation of income of enterprises operating aircraft chargeable in the countries in accordance with their respective laws;

Now, therefore, the said two Governments do hereby agree as follows:—

Article I

The taxes which are the subject of the present Agreement are:—

- (a) in India: the taxes imposed by the Indian Income-tax Act, 1922 (11 of 1922), hereinafter referred to as "Indian tax".
- (b) in Switzerland: the federal, cantonal and communal taxes on income and profits, hereinafter referred to as "Swiss tax".

Article II

For the purpose of this agreement, the expression:—

- (a) "the business of air transport" means the business of transporting by air persons, livestock, goods or mail carried on by the owner or hirer or character of aircraft;

- (b) "Indian enterprises" means the Government of India, individuals resident in India and not resident in Switzerland and corporations, partnerships, Hindu Undivided Families or associations of persons constituted under the laws of and managed and controlled in India, including such corporations in which the Government of India have a share;
- (c) "Swiss enterprises" means the Swiss Confederation or any canton thereof, individuals resident in Switzerland and not resident in India and corporations or partnerships constituted under the laws of and managed and controlled in Switzerland, including such corporations in which the Swiss Confederation or any canton thereof has a share;
- (d) the term "India" shall have the same meaning assigned to it in Article I of the Constitution of India;
- (e) the term "Switzerland" means the Swiss Confederation.
- (f) The term "Federal Decree of 1st October, 1952", means the Federal Decree authorising the Swiss Federal Council to exchange declarations of reciprocity with respect to taxes of enterprises operating ships or aircraft, of 1st October, 1952.
- (g) The term "internal traffic" shall mean traffic which originates and terminates within Switzerland or within India, respectively.

Article III

(1) All Income derived from the business of air transport by Swiss enterprises engaged in such business shall be exempt from Indian tax. This clause shall not, however, apply to income arising as a result of internal traffic in India.

(2) By virtue of the Federal Decree of 1st October 1952, all income derived from the business of air transport by Indian enterprises engaged in such business shall be exempt from Swiss tax. This clause shall not, however, apply to income arising as a result of internal traffic in Switzerland.

(3) The exemption provided for in paragraphs 1 and 2 above shall also apply to India or Swiss enterprises participating in a pooled service, in a joint air transport operating organisation or in an international operating agency.

Article IV

This agreement shall come into force on the date on which the last of all such things shall have been done in India and Switzerland as are necessary to give the Agreement the force of law in India and Switzerland respectively and shall thereupon have effect:

- (a) in India for any year of assessment beginning on or after the 1st April, 1958.
- (b) in Switzerland for any taxable year beginning on or after the 1st January, 1957.

Article V

This agreement shall continue in effect for an indefinite period of time but either of the contracting Governments may, on or before the 30th September in any calendar year, give to the other contracting Government written notice of termination and in such event the agreement shall cease to have effect:

- (a) in India for any year of assessment beginning on or after the 1st April, immediately following;
- (b) in Switzerland for any taxable year beginning on or after the 1st January, immediately following.

Done in duplicate at New Delhi, the 28th day of August, one thousand nine hundred and fifty-eight in the English, Hindi and French languages, all the texts being equally authoritative.

(Sd.) HANSJOERG HESS,
For the Swiss Federal Council.

(Sd.) V. V. CHARI,
For the Government of India.

In the presence of

(Sd.) ERIC MENTHA,
Commercial Secretary,
Embassy of Switzerland,
New Delhi.

(Sd.) N. H. NAQVI,
Secretary,
Central Board of Revenue,
New Delhi.

[No. 79.]

[F. No. 25/89/57-I.T.]

V. V. CHARI, Jt. Secy.

